

# **EXHIBIT 1**

**STATE OF MISSISSIPPI  
COUNTY OF HINDS**

**DECLARATION OF MARSHALL FISHER,  
COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS**

I, **MARSHALL FISHER**, do swear, affirm and declare as true the following:

1. I am the Commissioner of the Mississippi Department of Corrections (“MDOC”) which includes the Mississippi State Penitentiary at Parchman where executions are held, having served in that capacity since my appointment effective January 1, 2015.
2. I am over twenty-one years of age, and have personal knowledge of the matters described herein.
3. Pursuant to the Mississippi Code my duties as Commissioner include responsibility for “all duties and necessary acts pertaining to the execution of a convict” save those that are “vested in the state executioner.” Miss. Code Ann. § 99-19-53. Those duties include the selection and acquisition of suitable drugs for carrying out executions by lethal injection in accordance with Miss. Code Ann. § 99-19-51, adopting any necessary changes to MDOC’s lethal injection execution protocol, and the disposition of MDOC’s supplies of lethal injection drugs.
4. It has been and remains the practice and procedure of MDOC to destroy lethal injection drugs when the expiration date of each unit of those drugs has passed.
5. On May 20, 2015, MDOC’s entire supply of pentobarbital expired. Thereafter, I requested that MDOC’s supply of pentobarbital be destroyed using the incinerator located at the Mississippi Bureau of Narcotics. In accordance with my request, MDOC’s entire supply of pentobarbital was destroyed on or about June 8, 2015, using the incinerator located at the Mississippi Bureau of Narcotics. *See Exhibit A.*

6. MDOC's current lethal injection execution protocol calls for the administration of three drugs in succession. The current protocol requires the first of the three drugs administered to be:

Sodium Pentothal, 2.0 Gm (four 500 mgm vials dissolved in the least amount of diluent possible to attain complete, clear suspension)

Or

In the event of an unavailability of a sufficient quantity of sodium pentothal from available sources, a sufficient quantity of pentobarbital will be acquired and administered in the place of sodium pentothal. The pentobarbital will be administered in the same serial order as sodium pentothal: Pentobarbital 5.0 GM. (two 50 ml vials in the least amount of diluents possible to attain complete, clear suspension).

*See Exhibit B.*

7. MDOC has been and remains unable to obtain sodium pentothal for use in executions.

8. MDOC has made numerous attempts to secure a new supply of pentobarbital from multiple sources. To date, all of MDOC's efforts to obtain a new supply of pentobarbital have been wholly unsuccessful.

9. MDOC has been unable to obtain a new supply of pentobarbital, in any form whatsoever, for use in executions, and MDOC does not anticipate being able to obtain a new supply of pentobarbital, in any form whatsoever.

10. Because of the unavailability of sodium pentothal and pentobarbital, before any additional executions may be carried out, MDOC's current lethal injection execution protocol must be amended to allow for the substitution of other drugs which will satisfy the requirement in Miss. Code Ann. § 99-19-51 for the administration of an "ultra short-acting barbiturate or other similar drug" followed by the administration of a "chemical paralytic

agent.”

I, the undersigned, MARSHALL FISHER, declare under penalty of perjury that the foregoing is true and correct.

Executed this, the 22 day of June, 2015.



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MARSHALL FISHER, COMMISSIONER  
MISSISSIPPI DEPARTMENT OF CORRECTIONS

# EXHIBIT A



**STATE OF MISSISSIPPI**

DEPARTMENT OF CORRECTIONS

**MARSHALL FISHER**  
COMMISSIONER

June 8, 2015

Samuel Owens, Director  
Mississippi Bureau of Narcotics  
P. O. Box 720519  
Byram, MS 39272

*Re: Evidence Destruction Request*

Dear Director Owens:

As Commissioner of the Mississippi Department of Corrections, I am requesting your assistance in having the attached inventory log prepared for destruction. The items on this log have no further evidentiary value and we are requesting MBN's assistance with the destruction of this evidence pursuant to Section 41-29-154 of the Mississippi Code of 1972.

As discussed, the destruction is planned for Monday, May 8, 2015, with your Evidence Management Unit, who will then verify the inventory. Should you need any additional information from our agency please contact, Attorney Pelicia E. Hall at 601-359-5294 or Attorney Jim Norris at 662-719-2007.

Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall L. Fisher", written over a horizontal line.

Marshall L. Fisher  
Commissioner of MDOC





**STATE OF MISSISSIPPI**

DEPARTMENT OF PUBLIC SAFETY  
MISSISSIPPI BUREAU OF NARCOTICS

ALBERT SANTA CRUZ  
COMMISSIONER

PHIL BRYANT  
GOVERNOR

SAMUEL W. OWENS  
DIRECTOR

June 8, 2015

Captain Leigh Cochran  
Evidence Management  
Mississippi Bureau of Narcotics  
P.O. Box 720519  
Byram, Mississippi 39272

Dear Captain Cochran,

Receipt is acknowledged of the Mississippi Department of Correction's request for Evidence Destruction (Enclosure 1) requesting authorization to destroy drug evidence in the following cases: EMU-2015-021

**SEE ATTACHED INVENTORY LIST**

Pursuant to Section 41-29-154, Mississippi Code of 1972, this is the written authorization to destroy the evidence described in the request.

You are directed to make arrangements for two Bureau Agents to complete the destruction and return the Affidavit (Enclosure 2) to the Evidence Management Unit once the evidence has been destroyed.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel W. Owens".

Samuel W. Owens  
Director

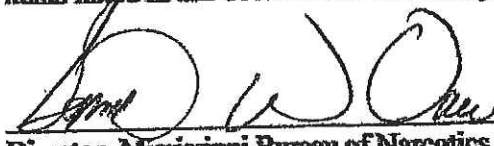
Enclosures (2)



## FINAL DISPOSITION AUTHORITY

Receipt is acknowledged requesting authorization to destroy evidence listed on this document, pertaining to the listed closed cases.

The listed exhibits are no longer required as evidence and no longer useful for training or demonstration purposes and may be disposed of by incineration/fire. Under the authority granted to me under section 41-29-154 of the Mississippi Code, I authorize the items listed in this document to be destroyed.

  
\_\_\_\_\_  
Director, Mississippi Bureau of Narcotics

6-8-15  
Date

## WITNESS TO DESTRUCTION OF DRUG EVIDENCE

The drug evidence listed on this document were destroyed by Industrial Fire @ MBN  
HQ Incinerator in my presence on JUNE 8, 2015.

Witness  
  
Agent Signature

Jimmy Sexton  
Print Name

Witness  
  
Agent Signature

RONALD RHODES  
Print Name

**RETURN COMPLETED AFFIDAVIT TO EVIDENCE MANAGEMENT UNIT**



**Mississippi Bureau of Narcotics**  
**MS. DEPARTMENT OF CORRECTIONS**  
**DESTRUCTION REQUEST**  
**JUNE 8, 2015**

Case Number Crime Lab No County Agent	Case Date	Case Type	Evidence Type	Description	Location	Disposition	Movement
EMU-2015-021		Non Bureau Case	Drug	Exhibit 1 Tag No: RX NARCOTIC 0.00	Master Loc: EMU Vault: Row: Shelf: Box: Cabinet:		Date: 06/08/15 Type: Destruction Requested MBN Recipient: STEPHANIE HORTON Other Recipient: MS. DEPARTMENT OF CORRECTIONS REQUEST LETTER RECIEVED FROM MS. DEPARTMENT OF CORRECTIONS FOR EVIDENCE DESTRUCTION. SEE ATTACHED INVENTORY LIST.
<b>Totals</b>							
Drugs		1					
Vehicles		0					
Total		1					

*James Sexton 6/8/15*  
*Jim Davis*

Product Name: **Pentobarbital Sodium Power: 5 gm** Location: **Unit 17**

MSDS Sheet:      Yes      No

DATE	BEGIN BALANCE	AMOUNT ISSUED	AMOUNT RECEIVED	END BALANCE	ISSUED TO (Print Name)	ISSUED BY (Print Name)
6/18/14	0	0	09 bottles	09 bottles		
6/25/14	9 bottles	0	9 bottles	9 bottles		
12/16/14	9 bottles	0	0	9 bottles		
1/30/15	9 bottles	0	0	9 bottles		
2/19/15	9 bottles	0	0	9 bottles		
3/29/15	9 bottles	0	0	9 bottles		
4/17/15	9 bottles	0	0	9 bottles		
5/15/15	9 bottles	0	0	9 bottles		
6/8/15	9 bottles 5gm each	9 bottles	<del>0</del>	<del>0</del>		

*9/6/8/15*

06/08/2015

BOX OR BAG # 1

[illegible]

TOTAL NUMBER OF BOTTLES TO BE DESTROYED: 9 (YOU WILL HAVE TO MANUALLY COUNT THIS BECAUSE OF MULTIPLE EXHIBITS ON A SINGLE CASE)

TOTAL NUMBER OF EXHIBITS TO BE DESTROYED: 1 (THE ITEM # WILL GIVE YOU THIS)

**INSTRUCTIONS (YOU MAY DELETE THESE INSTRUCTIONS WHEN YOU COMPLETE INVENTORY)**

**BOX OR BAG # - NUMBER YOUR CONTAINERS. DOUBLE CLICK ON THE NUMBER TO CHANGE.**

ITEM # - LIST EACH EXHIBIT SEPERATELY AND PUT THIS NUMBER ON THE BAG OR CONTAINER AS YOU INVENTORY IT. THIS WILL HELP SPEED UP THE PROCESS WHEN WE GET THERE TO DO THE INVENTORY. IT WILL ALSO HELP FIND ITEMS WHEN THERE HAS BEEN A LEAK OR SOMETHING.

**CASE # -** PUT YOUR AGENCY CASE NUMBER HERE. WE PREFER A CASE # ON MISDEMEANOR CASES ALSO FOR AUDIT AND TRACKING. IF YOU DO NOT ISSUE A CASE NUMBER WE MUST HAVE THE ITEM # AND EXHIBIT # ON THE ITEM

**MCL # -** THIS IS THE CRIME LAB NUMBER.

EX # - THIS IS YOUR AGENCY EXHIBIT NUMBER.

**DESCRIPTION** - DESCRIBE WHAT THE ITEM IS. WE HAVE TO BE ABLE TO SEE ALL THE DESCRIPTION. THIS FIELD MUST BE FILLED OUT.  
**TPW** - THIS IS THE TOTAL PACKAGE WEIGHT OF THE ITEM. IF IT HAS BEEN TO THE CRIME LAB YOU CAN USE THAT WEIGHT ON ITEM. IF IT HAS NOT BEEN TO THE CRIME LAB, WEIGH THE ITEM AND WRITE TPW AND WEIGHT ON BAG.

**TO ADD A LINE - CLICK AT THE OUTSIDE END OF LAST LINE AND PRESS ENTER.**

**METH LAB SAMPLES - PUT ALL THOSE HIGHLY FLAMMABLE ITEMS TOGETHER IN ONE CONTAINER SO THAT WE CAN APPROPRIATELY DESTROY THESE SEPERATELY.**  
**(LIQUIDS, LITHIUM BATTERIES) HAVE LAB REPORTS AVAILABLE WHEN WE GET THERE FOR INVENTORY.**

PAGE NUMBERS ARE OFF - YOU CAN DOUBLE CLICK ON THE PAGE NUMBER OR NUMBER OF PAGES AND THIS SHOULD CORRECT THAT FOR YOU

**BULK EXHIBITS -- YOU CAN SEE IF YOUR LOCAL POST OFFICE, VETINARY OFFICE, OR OTHER BUSINESS WILL WEIGH THESE HEAVY ITEMS IF YOU DO NOT HAVE LARGE ENOUGH SCALES.**

# **EXHIBIT B**



- Open execution room and injection room
- Inventory and inspect IV equipment, syringes and drugs
- Inspect gurney and straps
- Prepare drugs, fill syringes and place IV saline bags in position

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	in each syringe followed by a flush of 50cc of saline injected into the line.	
#3	Potassium Chloride, 50 milequiv. Per 50 cc (five 10 cc. Ampules of 10 milequiv. Each in each syringe))	3 Syringes

**PRE-EXECUTION INVENTORY AND EQUIPMENT CHECK**

Members of the injection team shall conduct an equipment check of all materials necessary to perform the execution.

The inventory shall be conducted not less than twenty-four (24) hours and not more than ninety-six (96) hours, of the scheduled execution.

An inventory checklist shall be completed, dated and initialed by the injection team.

Expiration and/or sterilization dates of all applicable items shall be checked on an individual item.

Outdated items (e.g., Normal Saline bags) shall be replaced immediately

Sterilized packs bearing a sterilization date in excess of thirty (30) days shall be replaced or resterilized immediately.

On the evening of the execution, members of the injection team shall enter the injection room at least one (1) hour prior to the scheduled time of the execution. They shall immediately re-inventory the supplies and equipment to insure that all is in readiness and if applicable, obtain replacement items for the Medical Facility.

**OBTAINING DRUGS**

During the afternoon preceding an execution by lethal injection, a member of the injection team shall proceed to the Drug Room of the Medical Facility to obtain the necessary agents (drugs) for the procedure.

When the drugs have been issued, and quantities verified, they should be placed in the Lethal Injection Drug Box.

A member of the injection team shall maintain personal, physical custody of the drug box until such time as it is opened for use or for return if not used.



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#### IV SET-UP PROCEDURE

The connecting needle of Administration Set (Baxter #2C5501 – or equivalent) shall be inserted into the outlet of the bag of Normal Saline IV solution.

The on-off clamp located between the “Y” injection and the needle adapter shall be removed and discarded. The flow of solution shall be controlled by the Flo-Trol clamp located about the “Y” site. The lip of the neoprene diaphragm on the “Y” injection site shall be rolled back so that it can easily be removed for insertion of syringe tips instead of a needle.

A sixty-one (61) inch Extension Set (Abbot Rx 15099 – or equivalent) shall be connected to the needle adapter of the Administration Set. Note: For the set-up for administration into the distal arm, a second Extension Set shall be required due to the additional distance.

An Angiocath (no smaller than 18 Ga. X2”) shall be connected to the needle adapter of the Extension Set. Optimal injection flow may be achieved with a 14 Ga. Or 16 Ga. Angiocath, if the veins will permit the use of the larger size. Angiocath will be secured with one (1) inch surgical tape.

The tubing shall be cleared of air and the Angiocath recovered. The set-up is ready for use.

The syringes containing the drugs shall be prepared and loaded in the following order:

- Two 50-cc syringes, each containing 10-15 cc of sterile Normal Saline. Label Syringes “NS”.
- Three 50-cc syringes, each containing 50 mEq of Potassium Chloride in 50 cc. Label syringes “3”.
- Three 50-cc syringes, each containing 50 mg of Pavulon in 50 cc. Label syringes “2” or In the event of unavailability of a sufficient quantity of pavulon from available sources, a sufficient quantity of vecuronium bromide will be acquired and administered in the place of pavulon. The vecuronium bromide will be administered in the same serial order as pavulon. Vecuronium Bromide 40mg/40cc, 20mg/20cc in each syringe followed by a flush of 50cc of saline injected into the line.
- One 50-cc syringe containing 2.0 Grams of Sodium Pentothal (contents of four 500. mgm vials dissolved in the least amount of diluent possible to attain complete, clear suspension). The Sodium Pentothal, being a federally controlled drug, shall be prepared last, when it appears that it shall actually be used. Label syringe “1”.
- In the event of an unavailability of a sufficient quantity of sodium pentothal from available sources, a sufficient quantity of pentobarbital will be acquired and administered in the place of sodium pentothal. The pentobarbital will be administered in the same serial order as sodium pentothal. Two 50cc syringes containing 5.0 grams of Pentobarbital (two 50 ml vials in the least amount of diluents possible to attain complete, clear suspension). The Pentobarbital, as the

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Sodium Pentothal shall be prepared last, when it appears that it shall be actually used. Label syringes "1".

### INJECTION PROCEDURE

The Angiocath shall be inserted into the vein of the left arm and secured in place. The flow of Normal Saline shall be started and administered at a slow rate of flow.

Step 1 shall be repeated for the right arm. This line shall be held in reserve as a contingency line in case of a malfunction or blockage in the first line.

Note: At this point, the administration sets shall be running at a slow rate of flow, and ready for the insertion of syringes containing the injections agents. Observation of both set-ups to insure that the rate of flow is uninterrupted shall be maintained. NO FURTHER ACTION shall be taken until the prearranged signal to start the injection of lethal agents is given by the Superintendent.

### SPECIAL INSTRUCTIONS - INMATE

1. The condemned inmate shall be transferred to the holding cell adjacent to the execution room forty-eight (48) hours prior to the scheduled execution date.
2. A duty post shall be established directly in front of the holding cell. This post shall be manned by a Correctional Officer twenty-four (24) hours a day. The officer assigned will maintain visual contact with the offender. The inmate will never be left alone.
3. The officer assigned shall maintain a continuous chronological log of events.
4. The inmate's personal property shall be disposed of pursuant to Mississippi Department of Corrections' Standard Operating Procedure 21-03-02.
5. The Superintendent, upon being officially notified of the impending execution, will notify the inmate of the execution date and time in person. The Superintendent will ascertain wishes (within reason) for the last meal. The condemned offender is required to be in compliance with MDOC grooming standards. Staff shall verify compliance at the time the Superintendent notifies the offender of the impending execution. Applicable MDOC policies and procedures shall be followed for an offender in non-compliance with grooming standards.
6. A Mississippi Department of Corrections' chaplain shall confer with the inmate prior to the scheduled execution and visit the inmate as often as necessary or as requested.
7. The day prior to the scheduled execution, the approved attorneys shall be allowed to have a non-contact visit with the condemned inmate between 0900 - 1500 hours. The only visits that will be allowed at Unit 17 on the day of the scheduled execution are the approved attorneys, spiritual advisors and family. These visits will occur between 1300 - 1600 hours and will be non-contact. Security will utilize a metal detector and pat search



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the visitors prior to entering the unit. Any escorts outside the cell shall require three (3) officers, one officer on each side of and one officer directly behind the offender. The offender may receive visits prior to his transfer to Unit 17 in accordance with Mississippi Department of Corrections Standard Operating Procedure 31-03-01. No changes will be made to the offender's visitation list.

8. A telephone shall be provided outside the offender's cell for the purpose of placing collect calls during normal business hours. The telephone shall remain operable until a stay of execution is received or until the inmate has been transferred to the execution chamber.
9. Between 1600 – 1630 hours, the offender shall be served his last meal, allowed to shower and dress in clean clothes.
10. The Director of the Chaplain's Department shall be responsible for carrying out the condemned prisoner's wishes regarding his last meal. The Chaplain shall advise the Superintendent of the inmate's wishes concerning witnesses he is permitted to have present at the execution, in accordance with statute and MSP Policy.
11. The approved spiritual advisors shall be allowed a **non-contact** visit with the condemned inmate beginning at 1630 hours and ending at 1700 hours.